

## Indicator 11: Child Find

### Instructions and Measurement

**Monitoring Priority:** Effective General Supervision Part B / Child Find

**Compliance indicator:** Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.

(20 U.S.C. 1416(a)(3)(B))

#### Data Source

Data to be taken from State monitoring or State data system and must be based on actual, not an average, number of days. Indicate if the State has established a timeline and, if so, what is the State's timeline for initial evaluations.

#### Measurement

a. # of children for whom parental consent to evaluate was received.

b. # of children whose evaluations were completed within 60 days (or State-established timeline).

Account for children included in (a), but not included in (b). Indicate the range of days beyond the timeline when the evaluation was completed and any reasons for the delays.

Percent = [(b) divided by (a)] times 100.

#### Instructions

*If data are from State monitoring, describe the method used to select LEAs for monitoring. If data are from a State database, include data for the entire reporting year.*

Describe the results of the calculations and compare the results to the target. Describe the method used to collect these data, and if data are from the State's monitoring, describe the procedures used to collect these data. Provide the actual numbers used in the calculation.

Note that under 34 CFR §300.301(d), the timeframe set for initial evaluation does not apply to a public agency if: (1) the parent of a child repeatedly fails or refuses to produce the child for the evaluation; or (2) a child enrolls in a school of another public agency after the timeframe for initial evaluations has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability. States should not report these exceptions in either the numerator (b) or denominator (a). If the State-established timeframe provides for exceptions through State regulation or policy, describe cases falling within those exceptions and include in b.

Targets must be 100%.

Provide detailed information about the timely correction of noncompliance as noted in OSEP's response for the previous SPP/APR. If the State did not ensure timely correction of the previous noncompliance, provide information on the extent to which noncompliance was subsequently corrected (more than one year after identification). In addition, provide information regarding the nature of any continuing noncompliance, improvement activities completed (e.g., review of policies and procedures, technical assistance, training, etc.) and any enforcement actions that were taken.

If the State reported less than 100% compliance for the previous reporting period (e.g., for the FFY 2021 SPP/APR, the data for FFY 2020), and the State did not identify any findings of noncompliance, provide an explanation of why the State did not identify any findings of noncompliance.

## 11 - Indicator Data

### Historical Data

Baseline Year	Baseline Data
2005	93.00%

FFY	2016	2017	2018	2019	2020
Target	100%	100%	100%	100%	100%
Data	98.62%	97.91%	99.44%	100.00%	95.93%

### Targets

FFY	2021	2022	2023	2024	2025
Target	100%	100%	100%	100%	100%

### FFY 2021 SPP/APR Data

(a) Number of children for whom parental consent to evaluate was received	(b) Number of children whose evaluations were completed within 60 days (or State-established timeline)	FFY 2020 Data	FFY 2021 Target	FFY 2021 Data	Status	Slippage
29	29	95.93%	100%	100.00%	Met target	No Slippage

**Number of children included in (a) but not included in (b)**

0

**Account for children included in (a) but not included in (b). Indicate the range of days beyond the timeline when the evaluation was completed and any reasons for the delays.**

The 5 children included in (a) but not in (b) are from 4 LEAs. The range of days was from 7 to 191, and all were completed at the time of the monitoring. Reasons for being over the timeline were all COVID related. The state of Montana, including school districts were shut down by the governor on March 16, 2020. These evaluations were in process at the time of the closure. LEAs documented that they completed what assessments they were able to virtually, but due to the required in person contact for some of them, they had to put them off until fall of 2020 when they were allowed to re-open. Some of the LEAs chose to re-open in fall 2020, but not all of them.

**Indicate the evaluation timeline used:**

The State used the 60 day timeframe within which the evaluation must be conducted

**What is the source of the data provided for this indicator?**

State monitoring

**Describe the method used to collect these data, and if data are from the State's monitoring, describe the procedures used to collect these data.**

The OPI collected the indicator data as a part of its compliance monitoring procedures during the 2021-2022 school year. Compliance monitors reviewed a sampling of student records for students who were initially referred for a special education evaluation. Monitors enter the date consent was received, date of the last assessment completed for the evaluation and the date of the Evaluation Report meeting into the OPI Monitoring application. The system calculates the number of calendar days between the date consent was received and the date the last assessment was completed. If more than 60 calendar days passed, the monitor is prompted to enter the reason.

Correction of identified noncompliance related to indicator 11, was verified using both prongs of the verification process described in the OSEP's 09-02 Memorandum and subsequent guidance from the OSEP. Each LEA in Montana has an on-site or virtual desk monitoring record review which is on a five-year cycle. State operated and state funded facilities are reviewed on a three-year cycle. The OPI monitoring staff selects records for review and uses a standard record review protocol to conduct the reviews. During this process, instances of IDEA noncompliance are identified. Following the on-site review, each LEA is provided a list, by student, of every instance of noncompliance identified during the review. The LEAs are given a specific set of timelines in which to correct every instance of noncompliance. Following the initial verification of correction, the OPI staff review additional records completed subsequent to the identification of the noncompliance to verify the LEA is complying with all IDEA regulations. If an LEA completes the correction of each instance of noncompliance, and provides the OPI with sufficient additional records to verify ongoing evidence of compliance, then no finding is issued to the LEA. This practice is based on the guidance provided by the OSEP in the FREQUENTLY ASKED QUESTIONS REGARDING IDENTIFICATION AND CORRECTION OF NONCOMPLIANCE AND REPORTING ON CORRECTION IN THE STATE PERFORMANCE PLAN (SPP)/ANNUAL PERFORMANCE REPORT (APR) document. In the process for determination of findings, the OPI considers a variety of factors including: (1) whether the noncompliance was systemic or found in only a small percentage of files; (2) whether the noncompliance showed a denial of a basic right under the IDEA (e.g., an extended delay in initial evaluation beyond applicable timelines with a corresponding delay in the child's receipt of FAPE, or a failure to provide any services in accordance with the IEP); and (3) whether the noncompliance represents an isolated incident, or reflects a long-standing failure to meet IDEA requirements. When data indicates additional evidence of sustained post-monitoring compliance is necessary, the OPI requires the district to obtain additional training and/or submit additional evidence of sustained compliance.

Due to the impacts of COVID-19, the SEA did not monitor at least 11 districts due to factors beyond the agencies control. Files were reduced from two per case manager per district to one file per case manager. If a case manager served multiple districts, there was a chance those files were not reviewed if it was decided the district was not going to be monitored.

The same verification procedures are used for all noncompliance, whether collected through the state's on-site monitoring system, desk review of records, state complaint or due process hearing decisions, or statewide student data system.

The description of Montana's monitoring process is detailed in the Introduction.

**Provide additional information about this indicator (optional)**

The state has previously reported all initial evaluations that were monitored in the federal fiscal year being reported on. Given the comment received from OSEP during clarification, Montana is revising the data for indicator 11 to only reflect the initial evaluations that were conducted and monitored during the federal fiscal year to be reported on. This significantly changed the number but is a more accurate reflection of the practices occurring in the state during FFY2021.

**Correction of Findings of Noncompliance Identified in FFY 2020**

Findings of Noncompliance Identified	Findings of Noncompliance Verified as Corrected Within One Year	Findings of Noncompliance Subsequently Corrected	Findings Not Yet Verified as Corrected
4	4	0	0

**FFY 2020 Findings of Noncompliance Verified as Corrected**

**Describe how the State verified that the source of noncompliance is correctly implementing the regulatory requirements**

The OPI reviewed individual student records to verify LEA's child find, evaluation/re-evaluation, and Individualized Education Program (IEP) processes and procedures meet the IDEA requirements and Montana's Administrative Rules. The student record review used during the monitoring process also addresses transfers, aversive treatment plans, manifestation determinations (including suspensions and expulsions), surrogate parents, private schools, high school graduates, exited students, students found not eligible, students who have had an evaluation report, other unique circumstances, IEPs during the current year and students whose parents revoked consent for special education services. Compliance monitoring activities consisted of:

- Review of a sampling of individual student records to examine current practices and documentation;
- Review of district policy, practices, and procedures;
- Visit selected schools, when appropriate; and
- Communication with individual teachers and specialists to discuss records, when appropriate.

All identified noncompliance is recorded, verified, and accounted for through a process of:

- Notification to the district of all identified noncompliance;
- Required correction of all identified noncompliance as per OSEP's 09-02 memo (Prong 1 of correction);
- District submission of up-dated data verifying 100 percent post-monitoring compliant policy, practice, and procedure (Prong 2 of correction);
- Timely issuance of findings, including corrective actions, for uncorrected identified noncompliance. Each finding cites a specific regulation, either federal or state, and describes the nature of the noncompliance;
- Additional issuance, when appropriate, of required technical assistance, professional development and/or district submission of up-dated data verifying 100 percent post-monitoring compliance in policy, practice, and procedure for issues corrected but originally identified to a degree that is indicative of systemic concern;
- Completion of required technical assistance and professional development activities; and
- The issuance of a final report to the district upon completion of all required compliance monitoring requirements.

The OPI maintains tracking systems for compliance monitoring and due process hearings, mediation, state complaints, and other Early Assistance Program activities. The tracking systems are reviewed, on no less than a monthly basis, to ensure timelines are met and procedures are being followed. Personnel maintaining the tracking systems are responsible for ensuring program specialists are kept aware of the timelines. Program specialists follow up with the LEAs, as appropriate, to ensure corrective actions required are being completed in accord with the designated times. Using these procedures, OPI has verified that each instance of noncompliance has been corrected and the LEAs identified are now correctly implementing the regulatory requirements.

**Describe how the State verified that each individual case of noncompliance was corrected**

The OPI lead monitor for the district in which the noncompliance was found worked specifically with that district and teacher to correct the noncompliance within a specified timeline (30, 60, 90 days). The monitor sent a report to the district describing the incident of noncompliance that must be corrected and for which student(s) in order to meet Prong 1 of the OSEP 09-02 memo. Once it had been corrected for that specific student to satisfy the Prong 1 requirement, the district then submitted evidence of sustained post monitoring compliance to satisfy Prong 2 of the 09-02 memo. This documentation is reviewed in the same manner as the initial documentation, and if non-compliance is found, the district must correct it (prong 1), and continue to submit documentation until they can show that Prong 2 has been met. Using these procedures, OPI has verified that each instance of noncompliance has been corrected and the LEAs identified are now correctly implementing the regulatory requirements.

**Correction of Findings of Noncompliance Identified Prior to FFY 2020**

Year Findings of Noncompliance Were Identified	Findings of Noncompliance Not Yet Verified as Corrected as of FFY 2020 APR	Findings of Noncompliance Verified as Corrected	Findings Not Yet Verified as Corrected

**11 - Prior FFY Required Actions**

Because the State reported less than 100% compliance for FFY 2020, the State must report on the status of correction of noncompliance identified in FFY 2020 for this indicator. When reporting on the correction of noncompliance, the State must report, in the FFY 2021 SPP/APR, that it has verified that each LEA with noncompliance identified in FFY 2020 for this indicator: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02. In the FFY 2021 SPP/APR, the State must describe the specific actions that were taken to verify the correction.

If the State did not identify any findings of noncompliance in FFY 2020, although its FFY 2020 data reflect less than 100% compliance, provide an explanation of why the State did not identify any findings of noncompliance in FFY 2020.

**Response to actions required in FFY 2020 SPP/APR**

The description of how the state verified both the source of the noncompliance and the individual instances of noncompliance were corrected using Prong 1 and Prong 2 of the 09-02 OSEP Memo can be found in the applicable sections of this indicator.

**11 - OSEP Response**

The State did not provide valid and reliable data for this indicator. In its FFY 2021 SPP/APR Data Table, the State reported parental consent to evaluate was received for 29 children (a), and 29 children had evaluations completed within 60 days (b). Therefore, the State's FFY 2021 data were 100%. However, in its narrative, the State reported there were five (5) children included in (a) but not in (b). Further, the State indicated that the range of days beyond the 60 day timeline when the five evaluations were completed "was from 7 to 191." Additionally, in its narrative the State referenced FFY 2020, which is outside of the reporting period for FFY 2021 (July 1, 2021- June 30, 2022). Specifically, the State reported, "The state of Montana, including

school districts were shut down by the governor on March 16, 2020. These evaluations were in process at the time of the closure." Therefore, OSEP could not determine if the State met its target.

### **11 - Required Actions**

The State did not provide valid and reliable data for FFY 2021. The State must provide valid and reliable data for FFY 2022 in the FFY 2022 SPP/APR.